

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER D. KATTIS,

Plaintiff,

-against-

THE CHAIR OF THE NEW YORK BOARD OF
PAROLE; COMMISSOINER OF THE
DEPARTMENT OF CORRECTIONS AND
COMMUNITY SUPERVISION,

Defendants.

23-CV-11250 (PMH)

ORDER OF SERVICE

PHILIP M. HALPERN, United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action under 42 U.S.C. § 1983, alleging that Defendants violated his First Amendment right to free speech when his parole officer “imposed additional special conditions to my parole terms of release[.]” (Doc. 1, “Compl.” at 5.) Plaintiff names as Defendants Darryl Towns, the Chair of the New York Board of Parole, and Daniel Martuscello III, the Commissioner of the New York State Department of Corrections and Community Supervision (“DOCCS”). By order dated January 4, 2024, Chief Judge Laura Taylor Swain granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees. (Doc. 2) As set forth in this Order, the Court adds as a defendant, Parole Office Ahumada, and directs service on Defendants Towns, Martuscello, and Ahumada.

DISCUSSION

A. The Court Adds as a Defendant, Parole Officer Ahumada

In the Complaint, Plaintiff pleads facts regarding his parole officer’s involvement in the imposition of special conditions to the terms of Plaintiff’s parole. (Compl. at 5 (“On December 14, 2023, Parole Officer Ahumada, who is my assigned Parole Officer, imposed additional special conditions to my parole terms of release.”). In light of Plaintiff’s *pro se* status, and clear

intention to name as defendants individuals who participated in the imposition of the special conditions to the terms of Plaintiff's parole, the Court adds as a defendant Parole Officer Ahumada. *See* Fed. R. Civ. P. 21. This amendment is without prejudice to any defenses Parole Officer Ahumada may wish to assert.

B. Order of Service

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Towns, Martuscello, and Ahumada through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the Complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service). Failure to request an extension of time for service may result in the dismissal of this action without prejudice.

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is respectfully directed to add Parole Officer Ahumada as a Defendant to this action under Fed. R. Civ. P. 21.

The Clerk of Court is further instructed to (1) issue summonses for Darryl Towns, Daniel Martuscello III, and Officer Ahumada, (2) complete the USM-285 forms with the addresses for these defendants, (3) deliver all documents necessary to effect service to the U.S. Marshals Service, and (4) mail Plaintiff an information package.

Plaintiff may receive court documents by email by completing the attached form, [Consent to Electronic Service](#).²

SO ORDERED.

Dated: White Plains, New York
February 9, 2024



PHILIP M. HALPERN
United States District Judge

² If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

DEFENDANTS AND SERVICE ADDRESSES

1. Darryl Towns
Chair, New York Board of Parole
1220 Washington Avenue, #9
Albany, NY 12226
2. Daniel Martuscello III
Commissioner, Department of Corrections and Community Supervision
1220 Washington Avenue, #9
Albany, NY 12226
3. Parole Officer Ahumada
DOCCS Poughkeepsie Area Office
20 Manchester Rd
Poughkeepsie, NY 12603

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Please list all your pending and terminated cases to which you would like this consent to apply. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Date

Signature